IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	§	
Breen, John J. et al	§	
	§	Confirmation No.: 1162
Serial No. 10/688,546	§	
	§	Group Art Unit: 2116
Filed: October 17, 2003	§	
	§	Examiner: Yanchus III, Paul B.
For: INFORMATION HANDLING SYSTEM INCLUDING FAST ACTING CURRENT MONITORING AND THROTTLING CAPABILITY	§	

BRIEF OF APPELLANT

Mail Stop Appeal Briefs – Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This Brief is submitted in connection with an appeal from the Final Rejection of the Examiner mailed to the Applicants on July 18, 2007, finally rejecting claims 1-23, all of the pending claims in this applications.

REAL PARTY IN INTEREST

The real party in interest is Dell Products, L.P., a Texas Limited Partnership, having a principal place of business at One Dell Way, Round Rock, Texas 78661, United States of America. This is evidenced by an assignment recorded with the U.S. Patent and Trademark Office on October 17, 2003 at Reel 014626, Frame 0399.

RELATED APPEALS AND INTERFERENCES

There are no related appeals and no related interferences regarding the above-identified patent application.

STATUS OF CLAIMS

The status of the claims is as follows:

Claims 1-23 are pending in the application and are rejected.

Claims 1-23 are being appealed.

Claims 1-23 are set forth in the CLAIMS APPENDIX, attached hereto.

STATUS OF AMENDMENTS

A Final Office Action was mailed to the Applicants on July 18, 2007, finally rejecting claims 1-23.

The Examiner has stated that for purposes of Appeal, the proposed amendment April 16, 2007, has been considered but is not persuasive. The claims rejected and pending are 1-23.

A Notice of Panel Decision from the Pre-Appeal Brief Review was mailed on November 19, 2007, indicating that claims 1-23 were rejected and that the application remains under appeal because there is at least one actual issue for appeal, and requiring Applicants to submit an Appeal Brief in accordance with 37 CFR §41.37.

SUMMARY OF THE CLAIMED SUBJECT MATTER

The present invention, in one embodiment, as now set forth in independent claim 1, relates to a method of operating an information handling system (IHS) including a processor, the method comprising:

determining if a power adapter or a battery is supplying power to the IHS; par. [0031] [0032], Figs. 1-4.

continuously monitoring, in real time by hardware components, the output current of the power adapter if the power adapter is supplying power to the IHS; par. [0024] Figs. 1-4.

continuously monitoring, in real time by hardware components, the output current of the battery if the battery is supplying power to the IHS; par. [0024] Figs. 1-4.

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level; and par. [0024] Figs. 1-4.

instantaneously reducing the frequency at which the processor operates if the output current of the battery exceeds a second threshold current level. par. [0024] Figs. 1-4.

The present invention, in an embodiment, as now set forth in independent claim 8, relates to a method of operating an information handling system (IHS) including a processor, the method comprising:

determining if a power adapter or a battery is supplying power to the IHS; par. [0031] [0032], Figs. 1-4.

continuously monitoring, in real time by hardware components, the output current of the power adapter if the power adapter is supplying power to the IHS; par. [0024] Figs. 1-4.

continuously monitoring, in real time by hardware components, the output current of the battery if the battery is supplying power to the IHS; and par. [0024] Figs. 1-4.

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a predetermined threshold current level or the output current of the battery exceeds the predetermined threshold current level. par. [0024] Figs. 1-4.

The present invention, in an embodiment, as now set forth in independent claim 11, relates to a method of operating an information handling system (IHS) including a processor, the method comprising:

continuously monitoring, in real time by hardware components, the output current of a power adapter which supplies power to the IHS; and Par. [0024] Figs. 1-4.

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level by receiving a processor hot signal at the processor. Par. [0024] Figs. 1-4.

The present invention, in one embodiment, as now set forth in independent claim 12, relates to a method of operating an information handling system (IHS) including a processor, the method comprising:

continuously monitoring, in real time by hardware components, the output current of a battery which supplies power to the IHS; and par. [0024] Figs. 1-4.

instantaneously reducing the frequency at which the processor operates if the output current of the power battery exceeds a first threshold current level. [0024] Figs. 1-4.

The present invention, in one embodiment, as now set forth in independent claim 13, relates to an information handling system (IHS) comprising:

a processor; par. [0015], [0017], [0020], [0021], [0024], [0027], [0031], [0032] Figs. 1-4.

a memory coupled to the processor; par. [0014]-[0016], [0022], [0023], [0025], [0026] Figs. 1-3.

an AC adapter and a battery for supplying power to the IHS; and par. [0015], [0017]-[0019], [0021]-[0033] Figs. 1-4.

a power control circuit, coupled to the AC adapter and the battery, for instantaneously reducing the frequency at which the processor operates if the output current of either the AC adapter or the battery, being monitored in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the AC adapter and the power rating of the battery. par. [0024] Figs. 1-4.

The present invention, in one embodiment, as now set forth in independent claim 17, relates to an information handling system (IHS) comprising:

a processor; [0015], [0017], [0020], [0021], [0024], [0027], [0031], [0032] Figs. 1-4.

a memory coupled to the processor; par. [0014]-[0016], [0022], [0023], [0025], [0026] Figs. 1-3.

an AC adapter for supplying power to the IHS; and [0017], [0018], [0021]-[0033] Figs. 1-4.

a power control circuit, coupled to the AC adapter, for instantaneously reducing the frequency at which the processor operates by receiving a processor hot signal at the processor if the output current of the AC adapter, being monitored in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the AC adapter. par. [0024] Figs. 1-4.

The present invention, in one embodiment, as now set forth in independent claim 20, relates to an information handling system (IHS) comprising:

a processor; [0015], [0017], [0020], [0021], [0024], [0027], [0031], [0032] Figs. 1-4.

a memory coupled to the processor; par. [0014]-[0016], [0022], [0023], [0025], [0026] Figs. 1-3.

a battery for supplying power to the IHS; and [0015], [0017], [0019], [0021]-[0033] Figs. 1-4.

a power control circuit, coupled to the battery, for instantaneously reducing the frequency at which the processor operates if the output current of the battery, being monitored

in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the battery. par. [0024] Figs. 1-4.

The present invention, in one embodiment, as now set forth in independent claim 23, relates to a system for operating an information handling system (IHS) including a processor, the system comprising:

means for determining if a power adapter or a battery is supplying power to the IHS; par. [0031] Figs. 1-4.

hardware components for continuously monitoring, in real time, the output current of the power adapter if the power adapter is supplying power to the IHS; par. [0024] Figs. 1-4.

hardware components for continuously monitoring, in real time, the output current of the battery if the battery is supplying power to the IHS; par. [0024] Figs. 1-4.

means for instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level; and par. [0024] Figs. 1-4.

means for instantaneously reducing the frequency at which the processor operates if the output current of the battery exceeds a second threshold current level. [0024] Figs. 1-4.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-23 are unpatentable under 35 U.S.C. §103(a) as being unpatentable over Applicant's Admitted Prior Art (AAPA hereinafter) in view of Atkinson (U.S. Patent No. 6,498,460) (Atkinson hereinafter).

ARGUMENT

Claims 1, 8, 11, 12, 13, 17, 20, and 23 recite:

Claim 1

determining if a power adapter or a battery is supplying power to the IHS;

continuously monitoring, in real time by hardware components, the output current of the power adapter if the power adapter is supplying power to the IHS;

continuously monitoring, in real time by hardware components, the output current of the battery if the battery is supplying power to the IHS;

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level; and

instantaneously reducing the frequency at which the processor operates if the output current of the battery exceeds a second threshold current level.

Claim 8

determining if a power adapter or a battery is supplying power to the IHS;

continuously monitoring, in real time by hardware components, the output current of the power adapter if the power adapter is supplying power to the IHS;

continuously monitoring, in real time by hardware components, the output current of the battery if the battery is supplying power to the IHS; and

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a predetermined threshold current level or the output current of the battery exceeds the predetermined threshold current level.

Claim 11

continuously monitoring, in real time by hardware components, the output current of a power adapter which supplies power to the IHS; and

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level by receiving a processor hot signal at the processor.

Claim 12

continuously monitoring, in real time by hardware components, the output current of a battery which supplies power to the IHS; and

instantaneously reducing the frequency at which the processor operates if the output current of the power battery exceeds a first threshold current level.

Claim 13

a processor;

a memory coupled to the processor;

an AC adapter and a battery for supplying power to the IHS; and

a power control circuit, coupled to the AC adapter and the battery, for instantaneously reducing the frequency at which the processor operates if the output current of either the AC adapter or the battery, being monitored in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the AC adapter and the power rating of the battery.

Claim 17

a processor;

a memory coupled to the processor;

an AC adapter for supplying power to the IHS; and

a power control circuit, coupled to the AC adapter, for instantaneously reducing the frequency at which the processor operates by receiving a processor hot signal at the processor if the output current of the AC adapter, being monitored in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the AC adapter.

Claim 20

a processor;

a memory coupled to the processor;

a battery for supplying power to the IHS; and

a power control circuit, coupled to the battery, for instantaneously reducing the frequency at which the processor operates if the output current of the battery, being monitored in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the battery.

Claim 23

means for determining if a power adapter or a battery is supplying power to the IHS;

hardware components for continuously monitoring, in real time, the output current of the power adapter if the power adapter is supplying power to the IHS;

hardware components for continuously monitoring, in real time, the output current of the battery if the battery is supplying power to the IHS;

means for instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level; and

means for instantaneously reducing the frequency at which the processor operates if the output current of the battery exceeds a second threshold current level.

A. THE COMBINATION OF APPLICANT'S ADMITTED PRIOR ART (AAPA) AND ATKINSON DO NOT TEACH OR SUGGEST ALL OF THE ELEMENTS OF THE PENDING CLAIMS

As detailed below, Applicant contends that the Examiner has improperly applied the combination of applicant's admitted prior art (AAPA) and Aktinson to independent claims 1, 8, 11, 12, 13, 17, 20, and 23. More specifically, the Applicant contends that the cited combination of references is defective in establishing a *prima facie* case of obviousness with respect to each element of the claims.

A *prima facie* case of obviousness is missing, however, at least because there is no support for an obviousness rejection of the claimed subject matter as a whole because AAPA and Atkinson fail to disclose each element of the claims or to suggest the missing elements.

As the PTO recognizes in MPEP §2142:

> The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

35 U.S.C. §103(a) provides that:

> [a] patent may not be obtained ... if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains ... (emphasis added)

> In addition, MPEP 2143.03 states "[t]o establish *prima facie* obviousness of a claimed invention, *all the claim limitations must be taught or suggested by the prior art.*" Emphasis added and citation omitted.

Thus, when evaluating a claim for determining obviousness, all limitations of the claim must be evaluated. However, the references, alone, or in combination, do not teach determining if a power adapter or a battery is supplying power to the IHS; continuously monitoring, in real time by hardware components, the output current of the power adapter if the power adapter is supplying power to the IHS; continuously monitoring, in real time by hardware components, the output current of the battery if the battery is supplying power to the IHS; instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level; and instantaneously reducing the frequency at which the processor operates if the output current of the battery exceeds a second threshold current level.

> In the Final Office Action mailed July 18, 2007, the Examiner argues, in part, that
>
> Applicant's arguments . . . have been fully considered but they are not persuasive. . . [The] applicant argues that not all limitations are disclosed in the AAPA and Atkinson combination because Atkinson does not disclose monitoring the output current of a battery. Examiner disagrees. **Atkinson is not relied upon to disclose monitoring output current of a battery. *Atkinson is only relied upon to disclose monitoring current in real time by hardware components.*** As described above, Atkinson discloses monitoring current in real time by hardware components in column 5, lines 1-15. Therefore, all limitations are disclosed by the AAPA and Atkinson combination regardless if Atkinson discloses monitoring output current of a battery. Emphasis added.

Thus, the **Examiner concedes that Atkinson is NOT being used to reject the element of "monitoring output current of a battery."** Thus, an element of the pending claims is missing from the reference.

Assume, for the sake of argument, that the Examiner did rely on Atkinson for teaching monitoring output current of a battery, which, as discussed above, is clearly not the case here. However, the Office Action of February 22, 2007 stated that "Atkinson discloses monitoring, in real time by hardware components [Current Sense in Figure 1], *output current* [it is not specified what output current is monitored] and instantaneously reduces the frequency at which the processor operates [slowing the processor clock frequency] if the output current exceeds a threshold current level [column 5, lines 1-15]." Emphasis Added. It is noted that the rejection did NOT specifically indicate that Atkinson teaches or suggests continuously monitoring the

output current of the battery. It is submitted that Atkinson DOES NOT teach or suggest continuously monitoring the *output current of the battery,* as recited in claim 1.

To the contrary, Atkinson teaches in column 4, the paragraph of lines 21-33 that "[t]he fuel gauge 122 receives as an input the voltage developed across a small value series resistor 120 and this can *monitor the current into the battery*. . . as well as the instantaneous *current into the cells* 118." Emphasis added. See Fig. 1. Other references of current *into* the battery 116 are found in Atkinson in column 7, lines 45-49, however, **no references were found in Atkinson regarding monitoring the *output current of the battery*.** Therefore, an element of the pending claims **is not taught by Atkinson**.

In addition, the Office Action mailed 2/22/2007 states on page 3 that **"AAPA *does not disclose* continuously monitoring, in real time by hardware components, *the output current of the power adapter or battery* and instantaneously reducing the frequency at which the processor operates if the power output exceeds a threshold current level."** Emphasis added. Thus, **the Examiner has also conceded that the AAPA does not teach or suggest continuously monitoring the *output current of the battery*** (Examiner's Admitted Non-Disclosure (EAND hereinafter)). Here again, an element of the pending claims is not taught by the AAPA.

Therefore, because the previous Office Action's EAND states that "AAPA does not disclose continuously monitoring, in real time by hardware components, the output current of the power adapter or battery," **AND** the Final Office Action concedes that Atkinson is NOT being used to reject the element of "monitoring output current of a battery," **all of the elements of the pending claims are NOT FOUND, in any combination, in the references and it is therefore impossible to render the subject matter of the claims as a whole obvious based on any combination of the references**. As a result, the explicit terms of 35 U.S.C. §103(a) cannot be met and the Examiner's burden of factually supporting a *prima facie* case of obviousness clearly cannot be met with respect to claim 1, and a rejection under 35 U.S.C. §103(a) is defective and should be withdrawn.

Similarly, independent claims 8, 12, 13, 20 and 23 recite, among other things, elements of monitoring an output current of the battery. As explained above, neither AAPA nor Atkinson teach or suggest, monitoring an output current of the battery. Therefore, the rejections of these claims are also defective and should be withdrawn.

Dependent claims 2-7, 9-10, 14-16 and 21-22 depend from and further limit claims 1, 8, 13 or 20 and are also deemed to be in condition for allowance for at least that reason. See MPEP 2143.03.

B. THE COMBINATION OF APPLICANT'S ADMITTED PRIOR ART (AAPA) AND ATKINSON TEACH AWAY FROM THE PENDING CLAIMS

Independent claims 11 and 17 have previously been amended to recite, in part, "instantaneously reducing the frequency at which the processor operates . . . by receiving a processor hot signal at the processor." The rejection states that this is shown in AAPA paragraph [0005]. However, the AAPA paragraph [0005] actually **teaches away** from the language of the claim. Paragraph [0005] recites:

> By observing the adapter current and battery current, the BIOS software makes a determination of when the PROCHOT# signal should be asserted to reduce the operating frequency of the processor. Unfortunately, the BIOS software monitors the adapter and battery current non-continuously, namely at a relatively low rate, for example 10 - 20 times per second. If the power adapter current or battery current exhibits rapid changes or pulses, it is possible that the relatively slow acting BIOS software may not detect these rapid changes and pulses. Should this occur, the adapter and battery may be driven beyond their intended capabilities and thus experience excessive current draw and heating. This may result in battery and/or AC-DC latch-off and data loss.

Thus, it is submitted that paragraph [0005] of the AAPA **teaches away** from the claim language. As such, AAPA paragraph [0005] does not teach the language of pending claims 11 and 17. Therefore, any rejection for the pending claims relying on paragraph [0005] of AAPA must fail and should be withdrawn.

Dependent claims 18-19 depend from and further limit claim 17 and are also deemed to be in condition for allowance for at least that reason. See MPEP 2143.03.

Similarly, independent claims 1, 12, 13, 20, and 23 recite, in part, "instantaneously reducing the frequency at which the processor operates." As discussed above, the reference teaches away from this element of the claims. Therefore, a rejection based on this is defective and should be withdrawn. Therefore, independent claims 1, 12, 13, 20, and 23 and their respective dependent claims are allowable.

CONCLUSION

It is respectfully submitted that the claims are fully supported by the applicable as filed and that the various combinations of references fail to each or suggest the subject matter of claims and establish a *prima facie* case of obviousness.

For all of the foregoing reasons, it is respectfully submitted that claims 1-23 be allowed. A prompt notice to that effect is earnestly solicited.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office, via EFS-Web, on the date indicated below:

on December 14, 2007
Date

Y. Kim Reyes
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CLAIMS APPENDIX

This listing of claims will replace all prior versions, and listings, of claims in the application:

1. (Previously Presented) A method of operating an information handling system (IHS) including a processor, the method comprising:

determining if a power adapter or a battery is supplying power to the IHS;

continuously monitoring, in real time by hardware components, the output current of the power adapter if the power adapter is supplying power to the IHS;

continuously monitoring, in real time by hardware components, the output current of the battery if the battery is supplying power to the IHS;

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level; and

instantaneously reducing the frequency at which the processor operates if the output current of the battery exceeds a second threshold current level.

2. (Original) The method of claim 1 wherein the first and second threshold current levels are the same.

3. (Original) The method of claim 1 wherein the first and second threshold current levels are different.

4. (Original) The method of claim 1 including determining the power output rating of the power adapter if the power adapter is supplying power to the IHS.

5. (Original) The method of claim 4 including setting the first threshold current level dependent on the power output rating of the power adapter.

6. (Original) The method of claim 1 including determining the power output rating of the battery if the battery is supplying power to the IHS.

7. (Original) The method of claim 6 including setting the second current threshold level dependent on the power output rating of the battery.

8. (Previously Presented) A method of operating an information handling system (IHS) including a processor, the method comprising:

determining if a power adapter or a battery is supplying power to the IHS;

continuously monitoring, in real time by hardware components, the output current of the power adapter if the power adapter is supplying power to the IHS;

continuously monitoring, in real time by hardware components, the output current of the battery if the battery is supplying power to the IHS; and

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a predetermined threshold current level or the output current of the battery exceeds the predetermined threshold current level.

9. (Original) The method of claim 8 including determining the power output rating of the power adapter and the power output rating of the battery.

10. (Original) The method of claim 9 including setting the predetermined threshold current level dependent on the power output rating of the power adapter and the power output rating of the battery.

11. (Previously Presented) A method of operating an information handling system (IHS) including a processor, the method comprising:

continuously monitoring, in real time by hardware components, the output current of a power adapter which supplies power to the IHS; and

instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level by receiving a processor hot signal at the processor.

12. (Previously Presented) A method of operating an information handling system (IHS) including a processor, the method comprising:

continuously monitoring, in real time by hardware components, the output current of a battery which supplies power to the IHS; and

instantaneously reducing the frequency at which the processor operates if the output current of the power battery exceeds a first threshold current level.

13. (Previously Presented) An information handling system (IHS) comprising

a processor;

a memory coupled to the processor;

an AC adapter and a battery for supplying power to the IHS; and

a power control circuit, coupled to the AC adapter and the battery, for instantaneously reducing the frequency at which the processor operates if the output current of either the AC adapter or the battery, being monitored in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the AC adapter and the power rating of the battery.

14. (Original) The IHS of claim 13 wherein the power control circuit monitors a power supply identification signal from the AC adapter to determine the power rating of the AC adapter.

15. (Original) The IHS of claim 13 wherein the power control circuit monitors a battery identification signal from the battery to determine the power rating of the battery.

16. (Original) The IHS of claim 13 wherein the processor includes a control pin for controlling the frequency at which the processor operates.

17. (Previously Presented) An information handling system (IHS) comprising

a processor;

a memory coupled to the processor;

an AC adapter for supplying power to the IHS; and

a power control circuit, coupled to the AC adapter, for instantaneously reducing the frequency at which the processor operates by receiving a processor hot signal at the processor if the output current of the AC adapter, being monitored in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the AC adapter.

18. (Original) The IHS of claim 17 wherein the power control circuit monitors a power supply identification signal from the AC adapter to determine the power rating of the AC adapter.

19. (Original) The IHS of claim 17 wherein the processor includes a control pin for controlling the frequency at which the processor operates.

20. (Previously Presented) An information handling system (IHS) comprising:

a processor;

a memory coupled to the processor;

a battery for supplying power to the IHS; and

a power control circuit, coupled to the battery, for instantaneously reducing the frequency at which the processor operates if the output current of the battery, being monitored in real time, instantaneously exceeds a predetermined threshold level, the predetermined threshold level being dependent on the power output rating of the battery.

21. (Original) The IHS of claim 20 wherein the power control circuit monitors a battery identification signal from the battery to determine the power rating of the battery.

22. (Original) The IHS of claim 20 wherein the processor includes a control pin for controlling the frequency at which the processor operates.

23. (Previously Presented) A system for operating an information handling system (IHS) including a processor, the system comprising:

means for determining if a power adapter or a battery is supplying power to the IHS;

hardware components for continuously monitoring, in real time, the output current of the power adapter if the power adapter is supplying power to the IHS;

hardware components for continuously monitoring, in real time, the output current of the battery if the battery is supplying power to the IHS;

means for instantaneously reducing the frequency at which the processor operates if the output current of the power adapter exceeds a first threshold current level; and

means for instantaneously reducing the frequency at which the processor operates if the output current of the battery exceeds a second threshold current level.

EVIDENCE APPENDIX

There is no evidence submitted pursuant to 37 CFR§§1.130, 1.131, or 1.132, nor has any other evidence been entered by the Examiner.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings, and, thus, no copies of decisions exist.